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REMARKS

1. Status of the Claims

Claims 3-6, 8-11, 13-16, 25-31, 33, 38-40, 42, 43, and 45 are pending.

Claims 2, 16, 33, 42, 43, and 45 are amended herein.

Claims 2, 7 and 22-24 are canceled by this amendment.

No new matter is introduced.

Reconsideration is respectfully requested.

2. Amendments to the Specification

The Examiner objected to Applicants' previous amendment of the specification with regard to "cycloalkylalkenyl" on pages 5 and 22. The specification has been amended to remove the objectionable language.

3. Allowable Subject Matter

The Examiner stated that claims 25-31, 42, 43 and 45 were objected to as being dependent upon a rejected base claim, but would otherwise be allowable if re-written in independent form to include the limitations of the base claim and any intervening claims.

4. Rejections Under 35 USC 112, First Paragraph

The Examiner rejected claims 2-15, 33 and 38-40 for failing to comply with the written description requirement regarding the R3 variable represented by "cycloalkylalkenyl". Claim 2 has been canceled, and claim 33 has been amended to delete the recitation "cycloalkylalkenyl".

5. Double Patenting

The Examiner rejected claims 2-6, 16, 22-24, 33 and 38-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19-21 of U.S.

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Patent No. 6,376,527. The Examiner indicated that a timely filed terminal disclaimer may be filed to overcome this rejection. A Terminal Disclaimer (37 CFR §1.321) is submitted herewith.

6. Rejections Under 35 USC §103

The Examiner rejected claims 2-7, 12, 33 and 38-40 under 35 USC §103(a) as being unpatentable over Faraci et al., WO 94/13643 (US 5712303). The Examiner re-iterated previous bases for these obviousness rejections.

Claim 2 has been canceled as noted above. Claim 3 is amended to change its dependency to independent claim 33.

Independent claim 33 has been amended to limit the variable R³ to: (a) pyridin-2-yl, pyridin-3-yl, pyridin-4-yl, N-oxidopyridin-2-yl, N-oxidopyridin-3-yl, N-oxidopyridin-4-yl or pyridon-2-yl, all optionally substituted; or (b) 3-sulfamoylphenyl, 3-methylsulfonylphenyl, 3-carboxyphenyl or 3-ethoxycarbonylphenyl. These specific limitations are taken from dependent claims 8 and 13 respectively, which the Examiner indicated as being allowable (i.e., not rejected) over Faraci et al. All other elements for the variable R³ have been deleted. Applicants believe that claim 33 as amended and its dependent claims 3-6, 8-11, 13-16, and 38-40 are now patentable over Faraci et al.

Claim 16 has been amended to limit the variable R³ to: (a) optionally substituted heterocyclylalkyl; (b) optionally substituted heterocyclylalkoxy; (c) optionally substituted heterocyclylalkylamino; (d) -Y-(alkylene)-R⁹ where Y is a single bond, -O- or -NH- and R⁹ is optionally substituted heteroaryl, -CONR¹²R¹³, SO₂R¹⁴, -SO₂NR¹⁵R¹⁶, -NHSO₂R¹⁷ or -NHSO₂NR¹⁸R¹⁹ where R¹², R¹³, R¹⁴, R¹⁵, R¹⁶, R¹⁷, R¹⁸ and R¹⁹ are independently of each other hydrogen, alkyl or heteroalkyl; (e) optionally substituted pyridinyl; (f) optionally substituted N-oxidopyridinyl; or (h) pyridonyl. These limitations correspond respectively to the recitations in allowable claim 25 (elements (a), (b) and (c) above), allowable claim 28 (element (d)), and allowable claim 42 (elements (e), (f) and (g)). All other elements under the variable R³ have

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been deleted. Since claim 16 has been amended to limit the variable R³ to the elements of allowable claims 25, 28 and 42, Applicants respectfully believe that independent claim 16 as amended, together with its dependent claims 25-31, 42, 43 and 45 are now patentably distinct from the teachings of Faraci et al.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance, and the issuance of a formal Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-354-7540.

Please charge the Terminal Disclaimer fee (37 CFR §1.20(d)) to Deposit Account No. 18-1700. No other fees are believed due, but in the event that any additional fees are found to be due, please charge the same to the deposit account noted above.

Respectfully submitted,



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